

RESPONSE TO OFFICE ACTION

Claims 1 and 3-8 are currently pending in the application. Applicants respectfully request reconsideration of the present application in light of the following remarks.

Double Patenting

Section 1 of the office action rejected claims 1 and 3-8 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-30 of U.S. Patent No. 6,330,825. Applicants respectfully traverse this rejection.

The present application is a division of U.S. Patent Application Serial No. 09/176,011, now U.S. Patent No. 6,330,825 (the "parent application"). The first sentence of the application clearly states, "This application is a division of U.S. Patent Application No. 09/176,011, now U.S. Patent No. 6,330,825, which claims the benefit of U.S. Provisional Patent Application No. 60/063,183, filed October 20, 1997." A restriction requirement was issued in an office action mailed on February 17, 2000, in the parent application. In response to the restriction requirement, claims 27-33 were cancelled in the parent application. Claims 27 were then presented as claims 1-7 in the present divisional application.

MPEP 804.01 states. "The third sentence of 35 U.S.C. 121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, if the divisional application is filed before the issuance of the patent." Accordingly, Applicants respectfully submit the obviousness-type double patenting rejection based on U.S. Patent No. 6,330,825, issuing from the parent application, is improper and should therefore be withdrawn.

